



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: FEBRUARY 16, 2023

IN THE MATTER OF:

Appeal Board No. 626739

PRESENT: MARILYN P. O'MARA, JUNE F. O'NEILL MEMBERS

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective June 1, 2022, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance on behalf of the claimant. By decision filed November 7, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted by the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. On appeal, the claimant has come forward with new evidence that was not available at the time of the hearing. The Board has determined that a further hearing should be held to consider this new evidence. At the remand hearing, the Judge shall, subject to any objections, take into evidence the letter of Danielle Ryan FNP-C, dated January 3, 2023. The Judge shall question the claimant regarding the apparent discrepancy between the letter's statement that the claimant established care with the nurse practitioner on May 3, 2022, and the claimant's testimony that she started seeing her new doctor on June 5, 2022 (see page 14 of November 7, 2022 hearing transcript). The Judge shall question the claimant regarding whether her medical conditions stayed the same or changed between May 3, 2022, when the nurse practitioner allegedly advised

the claimant to take some time away from work, and June 1, 2022, when the claimant quit, and the Judge shall ask the claimant to describe any such changes. The claimant shall be asked why June 1, 2022 was the day when she quit. The Judge shall take such further testimony and evidence as may be necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of voluntary separation from employment without good cause, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue of voluntary separation from employment without good cause, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER

JUNE F. O'NEILL, MEMBER